

In the High Court of Punjab and Haryana, Chandigarh.

Criminal Revision No. 192 of 1988

Date of Decision: 24.01.2008.

Kulwinder Kaur and Others

...Petitioners

Versus

Daljit Singh

...Respondent

**CORAM: HON'BLE MR. JUSTICE KANWALJIT SINGH
AHLUWALIA**

Present: Ms. Renu Bala Sharma, Advocate
for the petitioners.

None for the respondent.

Kanwaljit Singh Ahluwalia, J. (Oral)

The instant revision petition has been preferred by Kulwinder Kaur, Jasbir Kaur and Sital Singh, daughter and son of Kulwinder Kaur, respectively. This Court need not deal with the claim of Jasbir Kaur and Sital Singh, who were minor in 1988 when this revision petition was preferred. At this stage, it has been very fairly stated by Ms. Renu Bala Sharma, learned counsel for the petitioners, that Jasbir Kaur was born in the year 1981 and Sital Singh was born in the year 1982. Therefore,

both of them have become major and their claim for maintenance cannot be gone into by this Court at this stage. Kulwinder Kaur was married with respondent Daljit Singh in village Kotla Surajmal on 11.4.1979. Two children were born to the parties as stated earlier, Jasbir Kaur who was born in May 1981 and Sital Singh, who was born in August 1982.

This case was taken up yesterday and today again none has appeared on behalf of husband Daljit Singh. Ms. Renu Bala Sharma, Advocate, appearing for petitioner Kulwinder Kaur has stated that she is a helpless lady. She is in dire need of maintenance to survive.

In view of her submission, I proceed to decide the revision petition in absence of counsel for the respondent as no appearance has been caused.

Briefly stated, Kulwinder Kaur for herself and her two minor children instituted an application under Section 125 Cr.P.C. On 12.3.1985. It was stated therein that due to demand of dowry, husband Daljit Singh and his father maltreated her and she was turned out of the house. It has been further stated that in the month of Kartik 1982, petitioner along with her children went to village Bajwa Khurd but the respondent refused to rehabilitate her. It was further stated that her husband has re-married on 27.1.1985 with Karamjit Kaur daughter of Chand Singh.

Learned Judicial Magistrate Ist Class, Jalandhar held that the respondent has failed to prove adultery as alleged and held that the respondent has failed to maintain Kulwinder Kaur and minor children and awarded maintenance of Rs.250/- per month in favour of Kulwinder Kaur and Rs.100/- separately in favour of two minor children.

The respondent-husband aggrieved against the order passed by learned Judicial Magistrate 1st Class, Jalandhar and filed a revision petition and the same was disposed of by the Court of learned Additional Sessions Judge, Jalandhar.

It is pertinent to mention here that another petition was filed by the petitioner and her two children for enhancement of maintenance. Learned Additional Sessions Judge has held that the Court at Jalandhar has no jurisdiction. This finding cannot be sustained as where the petitioner was residing she was entitled to file petition there. Without any cogent evidence, he returned a finding that she was having illicit relations with Tirath Singh Constable. These findings have been returned on the basis of conjecture and surmises.

I have perused the judgment of learned Additional Sessions Judge, Jalandhar. The same cannot be sustained and is liable to be set aside. Learned Additional Sessions Judge has not been guided by the basic principles of Section 125 Cr.P.C. that helpless woman and the children are to be maintained. Without any reliable evidence, the Court of learned Additional Sessions Judge has stated that the petitioner was having illicit relations and not entitled to maintenance. There is no basis to say that she has left the house of respondent of her own will. Accordingly, the judgment of learned Additional Sessions Judge is set aside and order of learned Judicial Magistrate 1st Class, Jalandhar dated 25.9.1996 is maintained.

Ms. Renu Bala Sharma, learned counsel for the petitioners has made an attempt that the maintenance be enhanced. This Court would have been cared to do so had there any evidence on the record

and affidavit has been filed as to how and why the compensation should be increased. If any variance has taken place, she will have to file an application for enhancement of maintenance before the Court of learned Judicial Magistrate Ist Class, Jalandhar.

With these observations, the present revision petition is accepted.

(Kanwaljit Singh Ahluwalia)
Judge

January 24, 2008
“DK”